

Message Text

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PAGE 01 CANBER 06793 290819Z
ACTION EA-06

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E.O. 11652: N/A
TAGS: EMIN, EFIN, EINV, SENV, AS
SUBJECT: DILLINGHAM DEVELOPMENTS

REF: (A) CANBERRA 6718, (B) CANBERRA 6717, (C) STATE 230935

1. DILLINGHAM AUSTRALIA MANAGING DIRECTOR HILL VISITED CANBERRA SEPTEMBER 29 AT AMBASSADOR'S INVITATION FOR LUNCHEON MEETING TO DISCUSS DEVELOPMENTS AND PROSPECTS IN DILLINGHAM CASE.

2. PRINCIPAL DEVELOPMENTS IN PAST WEEK HAS BEEN (1) DILLINGHAM'S RECEIPT OF OFFICIAL LETTER FROM ACTING MINISTER FOR NATIONAL RESOURCES, NIXON, FORMALLY ADVANCING A DOLS 4 MILLION OFFER PREVIOUSLY ANNOUNCED BY DEPRIMIN ANTHONY (CANBERRA 6717); (2) EXTEMPORANEOUS COMMENTS ON DILLINGHAM CASE REPORTEDLY MADE BY PRIME MINISTER FRASER DURING BRISBANE POLITICAL APPEARANCE (WE HAVE NO CONFIRMED TEXT OF THESE REMARKS) TO THE GENERAL EFFECT THAT IN THE UNITED STATES THERE IS USUALLY NO QUESTION OF COMPENSATION WHERE COMPANIES ARE AFFECTED BY ENVIRONMENTAL LAWS AND (3) LENGTHY PRESS COVERAGE THIS MORNING OF RESPONSE BY HILL IN WHICH HE TOOK ISSUE WITH FRASER'S STATEMENT RE U.S. PRACTICE, STATED THAT THE STATE DEPARTMENT HAD ENDORSED VIEWS OF DILLINGHAM LAWYERS TO THE EFFECT THAT FULL COMPENSATION WOULD BE PAID IF THE VALUE OF A COMPANY'S INTEREST IN THE U.S.

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 CANBER 06793 290819Z

WERE AFFECTED BY ENVIRONMENTAL LAWS AND SUGGESTED THAT DILLINGHAM MIGHT DECIDE TO APPEAL TO THE AUSTRALIAN HIGH COURT, THE INTERNATIONAL COURT OF JUSTICE, OR SEEK U.S. GOVERNMENT ASSISTANCE. HILL WAS ALSO DESCRIBED IN THE PRESS COVERAGE AS SUGGESTING THAT IF THE U.S. GOVERNMENT INTERVENED, IT WOULD PRESS THE GOA TO SUBMIT THE QUESTION OF COMPENSATION TO INDEPENDENT ARBITRATION. ONE POSSIBLE COURSE OF ACTION IN

THE EVENT OF GOA REFUSAL WAS STATED TO BE RETALIATION AGAINST
AUSTRALIAN EXPORTS UNDER THE PROVISIONS OF U.S. SUGAR
LEGISLATION.

3. IN THE COURSE OF TODAY'S DISCUSSIONS WE SUGGESTED, AND HILL
FULLY CONCURRED, THAT IN VIEW OF THE PRIME MINISTER'S RIGID PUBLIC
POSITION IT WAS PROBABLY COUNTERPRODUCTIVE AT THIS STAGE TO
ENCOURAGE FURTHER PUBLICITY OR SPECULATION ON THE POSSIBILITY
OF U.S. GOVERNMENT INTERVENTION. THE PRIME MINISTER'S PUBLIC
COMMITMENT TO HIS PRESENT POSITION IS SUCH THAT IT WAS
QUESTIONABLE WHETHER DIPLOMATIC PRESSURE COULD PRODUCE
ANY MAJOR CHANGE, AND VIRTUALLY CERTAIN THAT ANY DIPLOMATIC
APPROACH SHORT OF A MAJOR AND COSTLY CONFRONTATION WOULD BE
INEFFECTIVE.

4. WE WORKED OUT WITH HILL AN ALTERNATIVE SCENARIO IN WHICH
HE FULLY CONCURS AND WHICH HE PROPOSES TO PLACE BEFORE THE
PRESIDENT OF DILLINGHAM AT THE END OF THIS WEEK IN HONOLULU.
THIS SCENARIO CONTEMPLATES ENLISTING THE ASSISTANCE OF ONE
OR POSSIBLY TWO PRSTIGEOUS AUSTRALIANS WHO HAVE IMPECCABLE
CREDENTIALS AS DISINTERESTED PARTIES CONCERNED OVER THE LARGER
AUSTRALIAN INTEREST, TO APPROACH THE PRIME MINISTER AND
IMPRESS UPON HIM THE SERIOUS DAMAGE WHICH THE GOA'S INADEQUATE
COMPENSATION IS NOW DOING TO AUSTRALIA'S IMAGE AS AN INVESTMENT
HOST. UNDER THIS PLAN THEY WOULD URGE THE PRIME MINISTER TO
TAKE NOTE OF MISINFORMATION HE RECEIVED ON U.S. PRACTICE IN
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CONFIDENTIAL

PAGE 03 CANBER 06793 290819Z

SUCH CASES, AND ON THIS BASIS, AND SOLELY IN THE INTERESTS OF
AUSTRALIA'S INVESTMENT POSITION, AGREE TO APPOINT A DISTINGUISHED
PANEL OF PRIVATE CITIZENS TO MAKE AN INDEPENDENT INVESTIGATION
AND RECOMMENDATION AS TO THE PROPER LEVEL OF COMPENSATION.
HILL'S OWN THINKING HAD APPARENTLY ALREADY PROCEEDED PART WAY
IN THIS DIRECTION, SINCE HE ALREADY HAD IN MIND AN EXCELLENT
CANDIDATE FOR THIS INTERMEDIARY ROLE. HE AGREES WITH US THAT
THIS APPROACH IS THE MOST PROMISING STEP TO TAKE AT THIS TIME
AND IS CONFIDENT THAT DILLINGHAM MANAGEMENT WILL AGREE WITH IT
WHEN HE PRESENTS THE PLAN IN HONOLULU. HE HAS PROMISED TO ADVISE
US EARLY NEXT WEEK OF THE OUTCOME OF HIS HONOLULU DISCUSSION.

5. HILL WILL RECOMMEND TO DILLINGHAM PRESIDENT
CORNUELLE THAT LATTER URGE SENATOR INOUYE TO MAKE NO
FURTHER PUBLIC PRONOUNCEMENTS ON THE DILLINGHAM MATTER
WHILE THE PROPOSED MOVE OUTLINED ABOVE IS TAKEN.

6. EMBASSY WILL REPORT FURTHER DEVELOPMENTS WHEN IT
HEARS FROM HILL. ALSTON

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